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CC TO JUDGE DJ

FILED ENTERED
LODGED RECEIVED

DEC 15 2003 DJ

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY
BY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

WASHINGTON TOXICS COALITION,)
NORTHWEST COALITION FOR) Civ. No. C01-0132C
ALTERNATIVES TO PESTICIDES,)
PACIFIC COAST FEDERATION OF)
FISHERMEN'S ASSOCIATIONS, and) NOTICE OF FILING PROPOSED ORDER
INSTITUTE FOR FISHERIES RESOURCES,) GRANTING FURTHER INJUNCTIVE
RELIEF

Plaintiffs,

v.

ENVIRONMENTAL PROTECTION)
AGENCY, and CHRISTINE TODD) 01-CV-00132-NTC
WHITMAN, ADMINISTRATOR,)

Defendants,

AMERICAN CROP PROTECTION)
ASSOCIATION, et al.,)

Intervenor-Defendants.

Pursuant to this Court's direction at the status conference and order entered December 9, 2003, plaintiffs, Washington Toxics Coalition et al., are filing a proposed order embodying this

NOTICE OF FILING PROPOSED ORDER GRANTING
FURTHER INJUNCTIVE RELIEF (C01-0132C) - 1 -

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1 Court's rulings in the August 8, 2003 Order, at the August 14, 2003 oral argument, and at the
2 December 9, 2003 status conference. This Notice of Filing highlights changes from the Toxics
3 Coalition's previous proposed order as a result of the Court's direction at the December 9, 2003
4 status conference.

5 Plaintiffs' new proposed order:

6 deletes specific buffers for molinate and thiobencarb (in previous ¶ III.B.2 and
7 III.B.3) because EPA made "not likely to adversely affect" determinations for
8 molinate and thiobencarb and the Court wishes to exempt such pesticide uses
9 from the buffers;

10 deletes the exemption (in previous ¶ III.C.1) for metolachlor in the Southern
11 California steelhead, South-Central California coast steelhead, Central California
12 coast steelhead, Central Valley California steelhead, and Central Valley spring-
13 run chinook ESUs because EPA made "not likely to adversely affect"
14 determinations for those ESUs;

15 deletes the exemptions for specific oryzalin uses (in previous ¶ III.C.2 and
16 ¶ III.C.3) because those uses occur in Salmon ESUs that received "not likely to
17 adversely affect" determinations;

18 deletes the exemption for bensulide use in the California portion of the Southern
19 Oregon/Northern California Coast coho ESU (in previous ¶ III.C.6) because EPA
20 made a "not likely to adversely affect" determination for that Pesticide use in that
21 Salmon ESU; and

22 deletes specific alternative buffers for fenbutatin-oxide (in previous ¶ III.B.7)
23 based on the Court's direction at the December 9, 2003 status conference.

24 The Toxics Coalition has updated the list of no effect determinations to incorporate
25 effects determinations made on or about December 1, 2003. The updated list is attached as
26 Exhibit 1 to the new proposed order. The new proposed order has attached as Exhibit 2 a chart
identifying current "not likely to adversely affect" determinations since the Court is excluding
those uses from the injunction.


For the additional urban restrictions, the new proposed order incorporates the 60-day
timeline proposed in EPA's original proposed order for the development of educational

1 information. The new proposed order uses the same timeline for distributing the point of sale
2 notification since, at the Court's direction, the text for such notification is prescribed in the order,
3 and there is no need for EPA to have additional time to develop its content.

4 While EPA's proposed order required the defendant-intervenors to distribute educational
5 information to sales outlets, the new proposed order also obligates EPA to ensure that the
6 specified point of sale notification is provided to prospective purchasers, as this Court directed at
7 the December 9, 2003 status conference.

8 Plaintiffs are attaching notifications that embody the language the Court has indicated it
9 will require and that contain graphics designed by King County. These designs illustrate
10 notifications that would comply with the proposed order's urban notification provisions.

11 Respectfully submitted this 15th day of December, 2003.

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King County

Department of Natural Resources and Parks
Water and Land Resources Division
Hazardous Waste Management Program
130 Nickerson Street, Suite 100
Seattle, WA 98109-1658
206-263-3050

December 15, 2003

Earthjustice
Attn: Amy Williams-Derry
705 Second Avenue -- Suite 203
Seattle, WA 98104

Re: Salmon Warning Graphic and Point of Sale Notification

Dear Earthjustice:

Enclosed are three visuals developed by King County's Water & Land Resources Division in conjunction with the case *Washington Toxics Coalition et al. v. EPA*. King County designed these graphics as illustrations of a potential point of sale salmon warning that it understands Judge Coughenour of the United States District Court for the Western District of Washington is likely to require be provided to purchasers wherever seven specific pesticides are sold in urban areas in Washington, Oregon, and California.

King County's Water & Land Resources Division is engaged in public education efforts regarding the effects of pesticides on salmon and steelhead, and these visual salmon warnings would complement those efforts.

Please contact me if you have further questions.

Sincerely,

Dave Galvin
Hazardous Waste Program Manager
Water & Land Resources Division
King County Department of Natural Resources and Parks

cc: Carolyn Duncan, Public Affairs Manager, King County DNR&P Public Affairs Unit
Logan Harris, Media Relations Coordinator, King County DNR&P Public Affairs Unit
Doug Rice, Public Education Coordinator, King County DNR&P Public Affairs Unit

KING COUNTY'S SUGGESTED VISUALS FOR SALMON WARNING



Option 1



Option 2



Option 3